

volume of business or available jobs is entirely beyond Respondent's control. Accordingly, it is recommended that Respondent make reasonable and businesslike efforts to restore its wholesale shirt operations to substantially the same scope and volume as prevailed prior to February 23, 1961.

With due regard to the experience and qualifications of the employees named in the complaint who have not been offered reinstatement, it is recommended that Respondent offer these employees reinstatement to their former or substantially equivalent jobs, as available, without prejudice to any rights or privileges previously enjoyed. In the event that there are not sufficient job openings for the said employees, it is recommended that Respondent create a preferential hiring list, notify the Union and the employees of such list, and offer to said employees on the list reinstatement to their former or substantially equivalent jobs, as such are available, without prejudice to their rights and privileges previously enjoyed.

With respect to those employees named in the complaint to whom Respondent has offered or does offer reinstatement to their former or substantially equivalent jobs, it is recommended that Respondent make them whole for any loss of pay suffered by reason of the discrimination against them. The employees' net earnings during the period from the date of their discharge to the date of the offer of reinstatement shall be deducted from gross backpay in a manner consistent with Board policy.⁴⁴

As to those employees named in the complaint for whom, during the 12-month period commencing from the date of this report, no job openings are available in Respondent's employ that are the same or substantially equivalent to their former jobs, with due regard for reasonable standards of qualification, and who have therefore not been offered reinstatement, it is recommended that they be made whole for any loss of pay suffered by reason of the discrimination against them by paying to each of them a sum of money equal to the amount she would normally have earned as wages from the date of the original discharge on February 23 or 24, 1961, until such time as each secures, or did secure, substantially equivalent employment with other employers.⁴⁵

In the event that the Board adopts the foregoing recommendations or in the event that Respondent undertakes compliance with these recommendations initially, it is recommended that the Board expressly reserve right to modify the backpay and reinstatement provisions if made necessary by a change of conditions in the future, and to make such supplements thereto as may hereafter become necessary in order to define or clarify their application to a specific set of circumstances not now apparent.

Since the Union represented and represents a majority of the employees in an appropriate unit that was not confined to employees who were terminated in February 1961 and since any effect that the terminations may have had upon the Union's strength was due to the illegal conduct of Respondent, it is recommended that Respondent bargain with the Union upon request.⁴⁶

[Recommendations omitted from publication.]

⁴⁴ *F. W. Woolworth Company*, 90 NLRB 289.

⁴⁵ *Bonnie Lass Knitting Mills, Inc.*, 126 NLRB 1396; *The R. C. Mahon Company*, 118 NLRB 1537; *Steward Hog Ring Company, Inc.*, 131 NLRB 310; *St. Cloud Foundry & Machine Company, Inc.*, 130 NLRB 911.

⁴⁶ *Frank Bros. Company v. N.L.R.B.*, 321 U.S. 702; *N.L.R.B. v. Philamon Laboratories, Inc.*, 298 F. 2d 176 (C.A. 2).

**Westinghouse Electric Corporation (Naval Reactors Facility)¹
and Eastern Idaho Metal Trades Council, AFL-CIO, Petitioner.** *Cases Nos. 19-RC-2956 and 19-RC-2957. May 24, 1962*

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Orville W. Turnbaugh, hear-

¹ The name of the Employer appears as amended at the hearing.
137 NLRB No. 30.

ing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Rodgers and Fanning].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organization involved claims to represent certain employees of the Employer.

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act, for the following reasons:

The Naval Reactors Facility (NRF) is one of a number of facilities at the National Reactor Testing Station (NRTS), which is located about 60 miles west of Idaho Falls, Idaho. NRTS was established in 1949 to test and operate various types of nuclear reactors as part of a basic Reactor Development Program of the Atomic Energy Commission (AEC). NRF is the only facility of NRTS operated by the Employer. The entire operation of NRF is enclosed in one area, approximately 60 acres. On this site are located the following installations: Expended Core Facility (ECF), A1W, S1W, Administration Services (A/S), Testing Services (T/S), and Plant Services (P/S), and various "support buildings," with which we are not concerned herein. Each installation has its headquarters in a separate building.

Along with some supporting facilities, S1W was started in 1952, and was then a basic prototype propulsion plant for the submarine *Nautilus*. The venture was successful, and was converted into a flexible test and training facility. It is now used primarily for carrying out various test programs to gain technical information that will assist in developing new equipment for both submarines and surface ships, and for certain commercial reactor projects. An ancillary function of S1W is to train Navy personnel in the operation and maintenance of the reactor propulsion plants which are constructed and experimented with there.

In 1957, A1W was constructed, and was set up as the prototype propulsion plant to the aircraft carrier *Enterprise* and the missile cruiser *Long Beach*. The basic functions of A1W and S1W today are the same.

In 1958, the ECF was added. It is basically a large laboratory, and is devoted to the study and analysis of expended reactor cores from the Naval Reactor Program, the conducting of various test pro-

grams involving structural materials, fuel materials, and planning materials (loop experiments), the interim examination of prototype fuels from S1W and A1W, and the training of Navy personnel. As will be pointed out below, some of the functions which are an integral part of ECF's experiments are carried on in the A1W or S1W areas.

The service groups which operate to assist ECF, A1W, and S1W technicians are A/S, P/S, and T/S. The A/S services are industrial relations, accounting, purchasing, warehousing, budgeting, etc. P/S provides installation and maintenance work, as well as janitorial services. T/S provides services in the following categories: industrial hygiene, quality control and safety, inspection, drafting, plant chemistry, instrumentation, and training support.

A single site manager is responsible for the overall operations of NRF. NRF cannot in any sense be called a "plant," for it produces no product in the usual sense. NRF is one big scientific laboratory for the development and simulation of scientific problems, and the analysis and discovery of answers to those problems.

In Case No. 19-RC-2956, the Petitioner seeks a unit of "all employees employed by Westinghouse (Naval Reactor Test Facility) who work in or out of the Expended Core Facility including employees classified by the Company as technician 'B' radio chemistry, technician 'B' hot cell, technician 'B' fuel handling, technician 'A' operations, technician 'A' radio chemistry, technician 'A' hot cell, technician 'A' fuel handling, instrumentation specialist, and technical specialist (a total of 49 employees), but excluding all office clerical employees, supervisory and professional employees, and guards as defined in the Act, and all other employees."²

In Case No. 19-RC-2957, the Petitioner seeks a unit of "all employees classified as inspectors (a total of 8) excluding all office clerical employees, technicians, guards, supervisors, and professional employees as defined in the Act, and all other employees." As an alternative, Petitioner stated it would have no objection to a unit combining the above referred to technical classifications and inspectors.

The Employer contends that its total operations at NRF are so thoroughly integrated and interdependent that the ECF does not constitute a functionally distinct or homogeneous group of employees. It further contends that the only appropriate unit is one which encompasses all its technical employees, a total of 127, of which the units sought by Petitioner are only a segment. It urges that, in addition to the employees sought by Petitioner, the unit to be appropriate must also include: the photographer and master photographer at A/S, the technical specialist at P/S, the eight technicians "A" operations and five technicians "A" reactor test at A1W, the tech-

² This unit description is in conformity with the unit description urged by the Petitioner, as amended just prior to the close of the hearing

nician "B" operations, seven technicians "A" operations, technician "A" reactor test, and the technical specialist at S1W, and the technician "B" chemistry, five technicians "B" industrial hygiene, draftsman "B," seven technicians "A" chemistry, fifteen technicians "A" instrumentation, seven draftsmen "A," seven technicians "A" industrial hygiene, eight inspectors "A," and the instrumentation specialist at T/S.

There are three technical specialists employed at NRF—one each assigned to ECF, P/S, and S1W. All three perform similar functions within the processes of the section in which they are working at any given time. Their job consists of preparing sketches and drawings for panel layouts of mechanical and/or electrical apparatus, and devising testing methods and interpreting data. Each is responsible for organizing technicians into concerted plans of action for accomplishing test objectives, and consulting with and advising technicians (e.g., hot cell, operations, and fuel handling technicians) in their testing procedures. They also coordinate the efforts of the drafting department. Petitioner would include only the technical specialist working in ECF.

Petitioner would exclude the operations technicians assigned to A1W and S1W. The technicians "A" are required to know the workings and operation of all the equipment in the facility to which assigned, and their job is to instruct trainees in operation techniques, to report unsafe conditions, and to recommend corrective maintenance. Technicians "B" perform the actual operational jobs for the most part. Although required to be "experts" in their own facility only, the record shows that these technicians also work as industrial hygiene technicians and as chemistry technicians when they are needed and are therefore sometimes assigned to other facilities. They also work, on occasion, as inspectors. The basic job functions of these technicians is the same at ECF, A1W, and S1W.³

The chemistry technicians, "A" and "B," are assigned to the T/S facility. The function of T/S is to supply ECF, A1W, and S1W with the many and varied types of technical services which they need, at the time they are needed. The nature of the services is such that it would be impracticable to have employees in each of the classifications in T/S assigned permanently to ECF, A1W, or S1W. The chemistry technicians perform analyses of water samples, test gross radioactivity, conductivity, chemical composition of materials used in the various facilities, etc. They work with other technicians or with engineers in performing numerous nonrepetitive chemical analyses. They may be assigned for periods of time to a particular facility—usually to A1W or S1W. However, on some occasions they are assigned to work at ECF. Petitioner would exclude these employees.

³ The designation of technicians as "A" technicians means those employees have completed their on-the-job training. "B" technicians are still "apprentices"

Another group of technicians assigned to T/S is the industrial hygiene technicians. Their main function is to check on contamination levels in the different facilities, and to prescribe interim correction of hazardous conditions, and the proper repair of defective equipment. In carrying out this function, these technicians work alongside the various technicians in ECF, A1W, and S1W, observing and instructing them as to proper safety techniques. Their presence is an absolute necessity at all stages of some functions of these facilities. Petitioner seeks to exclude these employees.

Although all hot cell technicians and fuel handling technicians are assigned to ECF, the fuel handlers spend 90 percent of their time in S1W, and, in order to carry out some programs or experiments, some hot cell technicians spend from 3 to 4 weeks at a time, about four times a year, working in S1W. The hot cell technicians conduct experiments in hot cell chambers built to withstand heat, pressures, and radiation. Their manipulations are by way of "master-slave" remote control instruments. Fuel handlers install, operate, adjust, dismantle, inspect, and test expended reactor components and shielding devices by use of remotely operated underwater tools and equipment.

There is one instrumentation specialist assigned to ECF, and one assigned to T/S. Petitioner would include only the former. Their jobs are basically the same: to provide direct technical assistance to lower classified technicians in their departments, and to coordinate the overlapping technical functions of engineers and lower technicians. They must know thoroughly the job of the instrumentation technicians, whose job it is to analyze circuits, determine their theory of operation, and instruct others in operating and maintaining them. The Petitioner would also exclude all instrumentation technicians, since all are assigned to T/S. But these employees often work along with the technicians in ECF, and one was assigned permanently to ECF until recently.

Reactor mechanical maintenance technicians are assigned to ECF and the Petitioner seeks to include them. However, they spend only 10 percent of their time in ECF, during which time they work as hot cell technicians or as water pit technicians (part of fuel handling). The remainder of their time is spent at A1W or S1W, where they perform fuel handling functions.

The photographer and master photographer are both assigned to A/S, but perform their work in ECF, S1W, and A1W, where their work requires the assistance of technicians in these facilities. Their function is to take photos of equipment and of testing results in the hot cells and water pits. Their basic job activity is that of a typical photographer. Petitioner would exclude them.

The draftsmen are assigned to T/S, but their time is equally divided between ECF, S1W, and A1W. Basically, they perform normal draft-

ing duties—making layout and design drawings for mechanical, structural, and electrical equipment. It is necessary that they work along with the inspectors at times in the process of inspecting structures and electrical circuits and comparing them with the blueprints. Petitioner would exclude them.

Petitioner seeks a separate unit of inspectors, all of whom are assigned to T/S. They are required to know the intricacies of all mechanical apparatus and some of the less intricate electrical apparatus. It is their job to inspect this apparatus, diagnose errors and flaws, and recommend corrective action. They must know thoroughly the job of the industrial hygiene technicians and sometimes take their places. As mentioned above, operations technicians sometimes work as inspectors. Their work takes them into ECF, S1W, and A1W.

The technical functions of NRF are thoroughly integrated and interdependent, and all the employees spoken of above must be taken together as constituting an appropriate unit. The interests and skills of all those employees are quite similar. With the possible exception of the photographers, all are technical employees within the meaning of the Act. All are salaried, are on the same payroll, are subject to the same personnel policies, are under the same progression program, have common facilities for eating, receive the same training course in criticality, and have identical employee benefits. Petitioner seeks arbitrary and artificial groups of these employees. The units petitioned for do not constitute functionally distinct or homogeneous groups of employees, nor administrative or departmental units, such as the Board might recognize.³

In view of the foregoing facts, and the entire record, the Board concludes that neither of the two separate units petitioned for, nor the proposed alternative unit, is appropriate. Hence, the petitions herein must be dismissed.

[The Board dismissed the petitions.]

³ The result herein is consistent with the rule set forth in *The Sheffield Corporation*, 134 NLRB 1101

The Dayton Power and Light Company and Local 175, Utility Workers Union of America, AFL-CIO.¹ *Case No. 9-R-1069.*
May 24, 1962

ORDER DENYING MOTION

On July 7, 1943, following an election pursuant to an agreement for consent election, Local 175 was certified as the collective-bargaining

¹ This is the present name of the Union. Its name at the time it was certified in 1943 was Local 175, Utility Workers Organizing Committee, CIO. A motion to change the records in this case to reflect the new name of the Union was granted at the hearing. The Union is hereinafter referred to as Local 175.